

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JORDAN DEAN WENHOLD,

Plaintiff,

v.

C.O. H. SMITH,

Defendant.

No. 4:22-CV-01873

(Chief Judge Brann)

ORDER

AND NOW, this 30th day of April 2024, in accordance with the accompanying Memorandum, **IT IS HEREBY ORDERED** that:

1. Defendant Correctional Officer H. Smith's motion for summary judgment (Doc. 22) pursuant to Federal Rule of Civil Procedure 56 is **GRANTED**.
2. The Clerk of Court is directed to enter judgment in favor of Smith and against plaintiff Jordan Dean Wenhold as to the single Section 1983 Eighth Amendment claim of excessive force.
3. Wenhold's motion for summary judgment (Doc. 26) is **DENIED**.
4. Wenhold's Section 1983 claim based on Smith's alleged violation of the DOC's Correctional Officer code of ethics is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted. Leave to amend is denied because amendment would be futile.¹

¹ See *Shane v. Fauver*, 213 F.3d 113, 115 (3d Cir. 2000) ("‘Futility’ means that the complaint, as amended, would fail to state a claim upon which relief could be granted.” (citation omitted)); *Centifanti v. Nix*, 865 F.2d 1422, 1431 (3d Cir. 1989) (“[T]he district court may properly deny leave to amend where the amendment would not withstand a motion to dismiss.”).

5. The Clerk of Court is further directed to **CLOSE** this case.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

Chief United States District Judge